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September 15, 1997

BY HAND

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554


**Re: In the Matter of Policy and Rules Concerning
the Interstate, Interexchange Marketplace;
CC Docket No. 96-61**

Dear Mr. Caton:

Transmitted herewith on behalf of the State of Alaska are an original and four copies of the Comments of the State of Alaska on Application For Review of IT&E Overseas, Inc. in the above-referenced proceeding.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


Robert M. Halperin

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

SEP 15 1997

In the Matter of)
)
Policy and Rules Concerning the)
Interstate, Interexchange Marketplace) CC Docket No. 96-61
)
Implementation of Section 254(g) of the)
Communications Act of 1934, as amended)
)
Application for Review of IT&E Overseas,)
Inc. of Order on Rate Integration Plan)

To: The Commission

**COMMENTS OF THE STATE OF ALASKA ON
APPLICATION FOR REVIEW OF IT&E OVERSEAS, INC.**

The State of Alaska ("Alaska" or "the State") wishes to comment briefly on certain arguments raised by IT&E Overseas, Inc. ("IT&E") in its August 29, 1997, Application for Review of the Memorandum Opinion and Order issued by the Common Carrier Bureau in the above referenced docket on July 30, 1997 (DA No. 97-1628).¹

The State has generally taken no position on specific aspects of the rate integration plans filed by various carriers for providing service in Guam and the Commonwealth of the Northern Mariana Islands ("CNMI"), and will not do so here. The State is concerned, however, that some arguments raised by IT&E

¹ These comments are timely filed pursuant to Section 1.115(d) of the Commission's rules.

would, if accepted, undercut the essential protections that Congress sought to implement for consumers in Alaska and other remote and high cost areas when it enacted the new Section 254(g) of the Communications Act of 1934, as amended.

First, the Commission should join the Bureau in rejecting the argument that the statutory mandate for rate integration permits rates to differ based on the terminating location of the call. Contrary to IT&E's claim, there is abundant support in the legislative history of Section 254(g) for the Bureau's plainly correct interpretation of the statute.

The Conference Committee report states:

New section 254(g) is intended to incorporate the policies of geographic rate averaging and rate integration of interexchange services in order to ensure that subscribers in rural and high cost areas throughout the Nation are able to continue to receive both intrastate and interstate interexchange services at rates no higher than those paid by urban subscribers.

H.R. Rep. No. 104-458, 104th Cong., 2d sess. 132 (1996). Telephone subscribers in rural Alaska cannot be assured of receiving interexchange services at rates no higher than those paid by subscribers in urban areas in the United States under IT&E's interpretation of the statute. This point is demonstrated most clearly if one considers the numerous calls -- such as collect calls and toll free (800/888) calls -- that are billed to the called party. Under IT&E's theory, a called party in a terminating rural location targeted for higher rates by the interexchange carrier would pay more for these calls than a called party in another area would, in direct contravention of Section 254(g).

Moreover, the Conference Committee report also states that Congress intended the Commission to adopt rate integration rules that "incorporate the policies contained in the Commission's proceeding entitled 'Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the United States Mainland and the Offshore Points of Hawaii, Alaska and Puerto Rico/Virgin Islands['] (61 FCC2d 380 (1976))." In that proceeding, the Commission made clear that rate integration would apply to inward and outward Wide Area Telecommunications Services ("WATS"). 62 FCC 2d at 387, 388-89, 389-90, 392, 394. Thus, *in the very proceeding that Congress specifically referenced*, the Commission made clear that rate integration did not permit the rates for calls to vary based on the terminating location of the call. IT&E's argument that Congress did not know or did not intend to prohibit carriers from charging different rates depending on where a call terminates, therefore, is plainly inconsistent with the legislative history.

Second, the Commission should reject the suggestion that the Bureau erred in stating that rate integration requirements do not apply to temporary promotions or private line services. The Commission has been clear that rate integration applies to all interstate interexchange services. *Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section of Section 254(g) of the Communications Act of 1934, as amended*, Report and Order, 11 FCC Rcd 9564 at ¶ 52 (1996), *aff'd on recon.*, First Memorandum Opinion and Order on Reconsideration, FCC 97-269 at ¶¶ 19, 24 (released July 30,

1997), *pet. for review pending*, *GTE Service Corp. v. FCC*, No. 97-1538 (D.C. Cir., filed September 4, 1997). Private line services and temporary promotions, therefore, must comply with rate integration requirements.

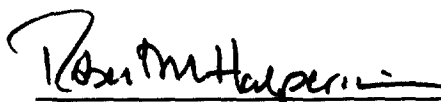
Contrary to IT&E's suggestion, forbearance from applying rate integration is not appropriate when the Commission has forborne from applying geographic rate averaging. Congress explicitly recognized that limited forbearance from geographic rate averaging requirements might be appropriate, but said nothing about forbearance from rate integration, thus indicating that it saw no circumstances in which forbearance from rate integration would be appropriate. *See* H.R. Rep. No. 104-458 at 132.

Moreover, in circumstances in which the Commission has forborne from applying geographic rate averaging, the Commission has not forborne from applying rate integration. Indeed, while forbearing from applying geographic rate averaging to some service offerings (including temporary promotions and private line services), the Commission stated that, notwithstanding such forbearance, "we will require carriers to offer the same basic service package to all similarly situated customers, *regardless of their geographic location.*" *Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended*, Report and Order, 11 FCC Rcd 9564 at ¶ 27 (emphasis added). In so stating, the Commission held that there would be no forbearance from rate integration even when there would be forbearance from geographic rate averaging. Thus, the Bureau did not err when it

said that rate integration requirements applied to temporary promotions and private line services.

Respectfully submitted,

THE STATE OF ALASKA

A handwritten signature in black ink, appearing to read "Robert M. Halperin", is written over a horizontal line.

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September 15, 1997

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CERTIFICATE OF SERVICE

I hereby certify on behalf of The State of Alaska that a true and correct copy of the foregoing Comments of the State of Alaska on Application For Review of IT&E Overseas, Inc. was served by hand delivery or first-class mail, postage prepaid, this 15th day of September, 1997, upon the following:

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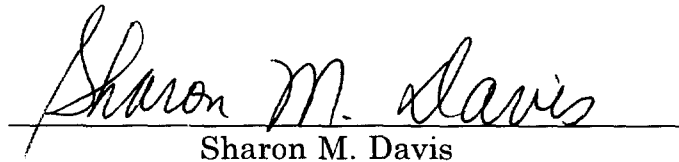
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